

## **REMARKS**

### **1. Preliminary Remarks**

Claims 1, 4, 6-10, 13, 15-18, 21, 23-26, 29, 31-35, 38, 40-43, 46 and 48-51 are pending after entry of this amendment. Claims 1, 18, 26, 34, and 43 have been amended herein. Claims 3, 5, 12, 14, 20, 22, 28, 30, 37, 39, 45 and 47 have been cancelled by the present amendment.

Applicant submits that claims 1, 4, 8-9, 18, 21, 25-26, 29, 33-35, 38, 42-43, 46 and 50-51, as amended herein, are in condition for immediate allowance. Applicant further requests rejoinder of withdrawn claims 6, 7, 10-17, 23-24, 31-32, 40-41, and 48-49. After the rejoinder of withdrawn claims and the cancellation of claims as set forth herein, Applicant submits that claims 1, 4, 6-10, 13, 15-18, 21, 23-26, 29, 31-35, 38, 40-43, 46 and 48-51 will be pending and allowable.

### **2. Remarks Concerning The Rejection Under 35 U.S.C. § 112, First Paragraph**

Claims 1-5, 8-9, 18, 20-22, 25-26, 28-30, 33-35, 37-39, 42-43, 45-47 and 50-51 were rejected under 35 U.S.C. § 112, first paragraph as containing subject matter which assertedly was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Office Action states that the rejection was based upon the lack of description of the inducer, host cells, and deficient transport system(s), in addition to the inducible promoter. Applicant respectfully traverses this rejection, however, in an effort to expedite prosecution, Applicant has amended independent claims 1, 18, 26, 34 and 43 (with the claims that depend from those independent claims as well as the withdrawn claims) to specify that the inducer is arabinose, the bacterial host cell is an *E. coli*, and the transport system is encoded by an *araE* gene or *araFGH* genes. The amendments moot the Examiner's rejection. Thus, the rejection may properly be withdrawn.

### **3. Request For Rejoinder And Examination Of The Withdrawn Claims**

In view of the amendments and remarks made herein, the basis for rejection of claims 1-5, 8-9, 18, 20-22, 25-26, 28-30, 33-35, 37-39, 42-43, 45-47 and 50-51 under 35 U.S.C. § 112, first paragraph has been mooted and may be properly withdrawn.

Applicant submits claims 1, 4, 8-9, 18, 21, 25-26, 29, 33-35, 38, 42-43, 46 and 50-51 are in condition for immediate allowance.

Furthermore, in view of the allowability of claims 1, 18, 26, 34, and 43 (which were identified as linking claims in the Office Action dated June 25, 2002), Applicant requests rejoinder and examination of withdrawn claims 6, 7, 10-17, 23-24, 31-32, 40-41, and 48-49. The June 25, 2002 Office Action stated that upon the allowance of the linking claim, the restriction requirement as to the linking inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claim will be entitled to examination in the instant application. (Office Action, June 25, 2002, page 3).


#### **4. Conclusion**

Applicant requests allowance of claims 1, 4, 6-10, 13, 15-18, 21, 23-26, 29, 31-35, 38, 40-43, 46 and 48-51. The Examiner is invited to telephone the undersigned to discuss any questions or be of any assistance to the Examiner in the reconsideration and allowance of this case.

Respectfully submitted,

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